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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/927,742

08/10/2001

Joseph E. Kaminkow

IGT1P061/P-573

7305

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04/17/2009

Weaver Austin Villeneuve & Sampson LLP - IGT

Attn: IGT

P.O. Box 70250

Oakland, CA 94612-0250

EXAMINER

DEODHAR, OMKAR A

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/927,742	KAMINKOW, JOSEPH E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	OMKAR A. DEODHAR	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-41,43-57 and 104-106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-41,43-57 and 104-106 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/11/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**Detailed Action**

**Final Rejection**

***Response to Arguments***

Applicant's arguments have been considered but are not persuasive.

Applicant argues that the Office action's modification of Packes to store comp point information on the player tracking card lacks a teaching or suggestion. Applicant further argues that this proposed modification may change the principle operation of the devices. Examiner respectfully disagrees.

The concept of player tracking & providing comps is well established. Given Packes' extensive disclosure of player tracking, the Examiner contended that both methods of storing comp points would perform equally well in Packes' system & therefore viewed this as design choice. Further, Applicant has neither disclosed nor presented any arguments as to why one method is favorable over the other. Absent a showing to the contrary, Examiner stands by his position that storing comp information directly on cards versus using tracking accounts is a matter of obvious design choice.

Moreover, contrary to Applicant's suggestion that the modification may change the principle operation of Packes' devices, Examiner contends that the devices would function just as one would expect them to function -- comp information stored directly on the card would be read by a card reader while comp information stored on the server would be retrieved in response to a player inserting his tracking card.

Applicant argues that even if the proposed modification were made, the references only teach a single tracking card & that the claimed first loyalty program

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instrument in not the loyalty program instrument that stores the combined loyalty points.

This distinction is not claimed. The last line of claim 15 for instance only requires

“combining the awarded loyalty points & the amount of loyalty points earned from the first activity & issuing to the patron a loyalty program instrument...loyalty points”. The

issued loyalty program instrument (card) could be the same card inputted when the player arrived at the machine. Similarly, the other pending claims only require issuing a loyalty program instrument with combined points.

Finally, Applicant has argued that Packes' server 200 is not a networked gaming device. Examiner contends that it is indeed a networked gaming device -- it is part of the casino gaming network & is therefore interpreted as a networked gaming device.

Consequently, all rejections are respectfully maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 15-22, 24, 25, 28, 31-41, 43-46, 48-50, 53-57, 105 & 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122).**

**Claims 15, 105:**

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Packes teaches:

A gaming machine configured for awarding loyalty points to patrons of a gaming establishment on a gaming apparatus, the computer-implemented method comprising:

(Figure 6, Item 250: "Comp Points")

receiving a first loyalty program instrument designed or configured to store an amount of loyalty points earned from a first activity not associated with the gaming apparatus;

(Packes does not teach storing comp information directly on the loyalty instrument, as Applicant appears to be claiming. Applicant's Specification, Page 7, Lines 5-10 describes this in the form of a ticket issued by the gaming machine. Applicant's Specification, Page 7, Lines 11-32 also describes storing comp information in a player tracking account. The two alternatives are viewed as performing equally well. It would have been a matter of obvious design choice to one of ordinary skill in the art at the time of Applicant's invention to store comp information directly on the card versus storing comp information in a player tracking account on a server.

See Col. 12. Lines 4-10 - a player inserts his tracking card at a gaming machine or card table, earns comps, removes his card & subsequently enters his card at another gaming machine or table; thereby satisfying the claim limitation of "not associated with the gaming apparatus". See also Col. 9. Lines 39-45: teaching that a player earns comp points from playing one machine, inserts his card at a different machine, begins play & accumulates additional comp points. The first & second gaming machines are interpreted as not associated with each other. )

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validating the first loyalty program instrument;

(Figure 9A – Steps 900 through 904 - the card must be validated. If the card is accepted by the player tracking device, the card is validated.)

receiving activity data associated with an activity by the patron of said gaming establishment, determining based on the activity data that the patron has begun an activity for which loyalty points are to be accrued accruing the loyalty points, for the patron during the activity awarding to the patron some or all of the loyalty points accrued during the activity;

(Figure 10, Item 1014 – the bonus may be credited to the player's account storing reward or comp points. See also Col. 10. Lines 43-45).

combining the awarded loyalty points and the amount of loyalty points earned from the first activity; and

(Reward points accumulate each time the player plays a game. In this manner, points earned from playing a gaming machine are combined with points earned from previous plays at the casino.)

issuing to the patron a loyalty program instrument designed or configured to store the combined loyalty points.

(The player tracking card is a loyalty program instrument. A player can redeem the accumulated points. See Col. 1. Lines 29-47 explaining several uses of loyalty points including redemption options).

**Claims 36, 106:**

See the discussion of claims 15 & 105. A player may play multiple games at the same gaming machine & accumulate comp and/or bonus credits to his player account. Since the claims do not specify what the second gaming event data is, the data could be a game event such as a player resulting in a zero credit balance, ejecting his tracking card & leaving the machine. The second event could also be qualification for a bonus amount as in Figure 10, Step 1004.

**Claim 16:**

Packes teaches that the gaming establishment is a casino. (Abstract)

**Claims 17, 21, 22:**

A casino has a plurality of venues - i.e., a number of tables & gaming machines.

**Claim 18:**

Packes teaches using a gaming machine in a gaming establishment (the tables & machines are in a casino which is a gaming establishment.)

**Claim 19, 49, 54:**

Packes teaches blackjack & slots. These are games of chance. See Col. 3. Lines 27-29.

**Claim 20:**

Packes teaches that the activity for which a patron may receive player-tracking points is an entertainment purchase - i.e., gambling. Gambling is entertainment.

**Claims 24, 28, 31-35, 37, 38, 40, 43:**

Packes teaches that the loyalty points stored on the loyalty instrument are redeemable for comps. (Col. 1. Lines 33-35). A player tracking account is also taught.

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See Figure 6 showing player identifier, comp points & bonus account balance. See also figure 2, Item 126 showing a magnetic card reader.

**Claim 25, 50:**

Packes teaches that the rate at which the patron accrues loyalty points varies according to the amount wagered. (Col. 10. Lines 57-62)

**Claim 39:**

Packes teaches a wager to play. This is analogous to depositing indicia of credit into a gaming machine. See Figure 2, Item 144 "Currency Acceptor".

**Claims 41, 48:**

See Packes Figure 9B, Step 918 – the secondary event may be a determination of a losing outcome; the player may have zero credits left. Before this determination is made, at least one game is played.

**Claim 44:**

See Packes Figure 6, table 240 showing a player's account.

**Claims 45, 46, 53, 55, 56:**

Since Packes teaches player tracking & an electronic gaming machine with memory, processing transactions must take place using the machine's memory - and processor for that matter. Further, See Packes Figure 1, server 200 & the related description. Data, including player account information may be stored at the server; a networked gaming machine.

**Claim 57:**



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See Packes, Figure 8 - There is a plurality of gaming machines from which the player is simultaneously accruing points. See Figure 10, Item 1002 – “Receive game play data from each gaming device.” This explicitly teaches the claim limitation.

**Claims 26, 27, 29, 30, 51, 52 & 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) as applied to claims 22, 15 & 36, in view of Walker (US 6,379,247).**

**Claims 26, 27, 29, 51, 52 & 104:**

Packes does not teach a player accruing points without inserting their card. Walker's Fig 10a, Steps 1016 & 1018 shows that player tracking points begin accruing without receiving player tracking information or a player tracking card from the player. In this case, a dealer presses a counter than increments frequent flyer miles. Walker's system also anonymously issues loyalty points (in the form of frequent flyer miles) without first receiving identification from the game player (Walker, column 8 lines 19-21).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate Walker's teaching of automatically awarding points without first requiring that a player inserts his card into a machine into the system of Packes. This is considered a substitution of known elements with the predictable results of awarding high spending players on a per-play basis. (See Walker Col. 2. Lines 43-46).

**Claim 30:**

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Packes in view of Walker teaches that the player is awarded frequent flyer miles without reference to the player account. (See Walker, Col 10, 23-33) Frequent flyer miles are interpreted as the claimed "goods" or "services".

**Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) as applied to claim 22, in view of Boushy (US Patent Number 5,761,647).**

**Claim 23:**

Packes teaches the invention substantially as claimed. Packes does not teach communication between venues and the gaming establishment via the Internet.

Boushy teaches a national customer recognition system in which various gaming venues communicate with a gaming establishment via a Wide Area Network (102). The Internet is a well-known Wide Area Network. Linking several venues via a Wide Area Network allows players to accumulate points at affiliated casino properties. This encourages patrons to visit affiliated casinos as they travel about the world. This translates to higher profits within a family of casinos.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified the invention suggested by Packes to include communication between venues and the gaming establishment via the Internet as suggested by Boushy in order to create a national customer recognition that allows players to accumulate points at affiliated casino properties thus encouraging patrons to visit affiliated casinos as they travel about the world and generating to higher profits within a family of casinos.

**Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) as applied to claim 36, in view of Kelley (US Patent Number 5,816,918).**

**Claim 47:**

Packes teaches the invention substantially as claimed. Packes discloses comps may take many forms, but fails to teach the claimed prize menu. Kelley teaches a prize redemption system that displays a prize menu including one or more prizes redeemable for an amount of loyalty points. (Fig 6, 334) The system then receives a prize selection selected from the prize menu. (336) If the patron has enough loyalty points for the selected prize, the system issues a loyalty program instrument used to redeem the selected prize. (337) It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Packes' system to include a prize menu from which a player may choose a prize and issue a loyalty program instrument redeemable for that prize as suggested by Kelly in order to allow players to easily redeem goods & services while at the gaming machine.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OAD/

/Corbett Coburn/  
Primary Examiner  
AU 3714